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OLC # 78-2946

14 August 1978

MEMORANDUM FOR THE RECORD

SUBJECT : HSCA Request for Agency Statements on

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1. Ken Klein of HSCA phoned today to say that he is writing to request an Agency statement on . Klein is the investigator who has been handling this matter. His letter will outline the areas on which views were wanted. He wants a person to give the statement orally.

STA

2. I pointed out that we had provided a written statement, which had been drawn together from a number of sources. No one person could speak with full personal knowledge on all of it. He stated that he realized this, but that he nevertheless wanted such a presentation. He went on to say that he would want to take a deposition prior to statement.

3. I stated that an Agency position would be just that. A deposition would be entirely inappropriate, prior to delivery of the position. First, the views would be a collection of administrative positions, and the person speaking would in a sense be speaking in terms of hearsay, so far as evidence is concerned. If the Agency is to present such a statement, it should be on one occasion only. I asked if it would not be advisable to have it presented to the Committee, per se, in executive session.

4. My thought in this reaction is that the way of preparing for cross-examination in the course of the investigation, as the investigators have done to date, is not appropriate for presentation of a formal Agency statement. The Agency spokesman, if there is one, should go and tell the Committee what the position is, and they should have to take it from there rather than setting up a system whereby they could try and kill off what they didn't like. However we do handle it, we may now have--at the Committee's initiative--the opening for this presentation.

STA

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